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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,086	06/25/2003	Jacob M. Dubin	3253	4247
63151 7590 10/15/2009 LAW OFFICE OF MARK BROWN, LLC 4700 BELLEVIEW SUITE 210 KANSAS CITY, MO 64112				
EXAMINER				
MISIASZEK, MICHAEL				
ART UNIT		PAPER NUMBER		
3625				
MAIL DATE		DELIVERY MODE		
10/15/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/606,086

**Applicant(s)**

DUBIN ET AL.

**Examiner**

MICHAEL MISIASZEK

**Art Unit**

3625

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 July 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 14, 16, 17 and 19-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14, 16, 17, 19 and 20 is/are allowed.
- 6) ☒ Claim(s) 21-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

**DETAILED ACTION**

***Response to Amendment***

Applicant's amendments filed 7/6/2009 have been received and reviewed. The status of the claims is as follows:

Claims 14, 16, 17, and 19-35 are pending.

***Election/Restrictions***

In light of applicant's amendments to claims 14 and 21-35, the election by original presentation presented in the previous Office Action is no longer proper and thus withdrawn.

***Allowable Subject Matter***

Claims 14, 16, 17, 19, and 20 are allowed in light of applicant's amendments.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- 1. Claims 21-28 and 30-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harmon in view of Hayes et al. (US 20020138399 A1, hereinafter Hayes)**

Regarding Claims 21, 30

Harmon discloses a method and computer readable medium for managing electronic commerce transactions involving tickets to events, the method comprising:

- Receiving-at a central exchange computer of information corresponding to tickets available for sale to customers by affiliates of the central exchange computer system (at least paragraph 42)
- maintaining receiving a rules set at the central exchange computer system specifying transaction conditions with respect tickets available from an originating affiliate for sale to customers by other affiliates (at least paragraph 42: pricing conditions for tickets)
- managing electronic commerce transactions involving tickets available from the originating affiliate for sale to customers by the other affiliates in accordance with the transaction conditions (at least paragraph 46)

Harmon does not explicitly disclose:

- specifying posting conditions for posting tickets identified by the originating affiliate as available for sale to customers by the other seller affiliates on respective websites of the other affiliates

Hayes teaches that it is known to include specifying posting conditions for posting items for sale from an originating affiliate as available for sale to customers by other seller affiliates (at least paragraph 110, figure 6B: sell-side rules determine which retailers can sell partners' products) in a similar environment. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the invention, as taught by Harmon, with the posting conditions, as taught by Hayes, since such a modification would have provided a competitive advantage for partners, by allowing them to transform business relationships and alter market share (at least paragraph 114 of Hayes).

#### Regarding Claims 22, 31

Harmon discloses:

- receiving information from the originating affiliate comprising one or more groups of tickets identified by the originating affiliate as available for sale directly to customers (at least paragraph 42)

- sending the one or more groups of tickets identified by the originating affiliate as available for sale directly to customers for posting on a website of the originating affiliate hosted by the central exchange computer system (at least paragraph 56)

Regarding Claim 23

Harmon discloses:

- wherein the one or more groups of tickets identified by the originating affiliate as available for sale directly to customers comprises one or more groups of tickets identified by the originating affiliate as available for sale to customers by the seller affiliates (at least paragraph 42: tickets identified as available for sale via exchange)

Regarding Claims 24, 32

Harmon discloses:

- wherein one or more of the respective websites of the other affiliates is are hosted by the central exchange computer system (at least paragraphs 11, 48, 56: web server hosts web pages)

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Regarding Claim 25

Harmon discloses selling groups of tickets by affiliates via a ticket exchange. Harmon does not explicitly disclose:

- wherein the posting conditions identify affiliates which are allowed to show ticket groups of the originating affiliate and identify affiliates which are not allowed to show ticket groups of the originating affiliate.

Hayes teaches that it is known to include specifying posting conditions that identify affiliates which are allowed to sell property of the originating affiliate and identify affiliates which are not allowed to sell property of the originating affiliate (at least paragraph 110, figure 6B: sell-side rules determine which retailers can and can't sell partners products) in a similar environment. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the invention, as taught by Harmon, with the posting conditions, as taught by Hayes, since such a modification would have provided a competitive advantage for partners, by allowing them to transform business relationships and alter market share (at least paragraph 114 of Hayes).

Regarding Claims 26, 33

Harmon discloses the claimed invention except for:

- wherein the posting conditions specify a required price markup

Hayes teaches that it is known to include a posting condition including a price markup (at least paragraph 119) in a similar environment. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the invention, as taught by Harmon, with the posting conditions, as taught by Hayes, since such a modification would have provided a competitive advantage for partners, by allowing them to transform business relationships and alter market share (at least paragraph 114 of Hayes).

Regarding Claim 27

Harmon discloses:

- wherein one or more of the originating affiliate, the customers, and the other affiliates comprise a ticket broker (at least paragraph 57)



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Regarding Claims 28, 34

Harmon discloses:

- posting one or more groups of tickets for sale that are not possessed by the originating affiliate (at least paragraph 42: tickets posted for sale that are possessed by each broker, i.e., tickets the originating broker possesses, and tickets other brokers possess)

**2. Claims 29 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harmon in view of Hayes as applied above, and further in view of Donner (US 7216109 B1).**

Regarding Claim 29, 35

Harmon discloses:

- receiving a purchase order involving one or more groups of tickets that are not possessed by the originating affiliate (at least paragraph 46)

Harmon does not explicitly disclose:

- managing an electronic commerce transaction conducted by the originating affiliate to procure tickets for fulfilling the purchase order.

Donner teaches that it is known to include managing a transaction conducted by an affiliate to procure tickets not in possession of that affiliate (at least column 9, lines 20-28: system acts as middle person between ticket holder, and ticket seller, i.e, manages a transaction) in a similar environment. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the invention, as taught by Harmon and Hayes, with the managing a transaction, as taught by Donner, since such a modification would have provided decreased costs for ticketed events, through a decrease in ticket printing (at least column 31, lines 59-67 of Donner).

***Response to Arguments***

Applicant's arguments with respect to claims 21-35 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **MICHAEL MISIASZEK** whose telephone number is (571)272-6961. The examiner can normally be reached on 9:00 AM - 5:30 PM, Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on (571) 272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Matthew S Gart/  
Supervisory Patent Examiner, Art  
Unit 3687

Michael A. Misiaszek  
Patent Examiner  
10/13/2009